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Senate of Texas
Committee of the Whole on
Legislative and Congressional Redistricting
Opinion Committee

GONZALO BARRIENTOS
Chairman

J.E. "BUSTER" BROWN
Vice-Chairman

December 17, 1996

The Honorable Dan Morales
Attorney General
Price Daniel, Sr. Bldg.
Austin, Texas 78701

RR-927

Re: Request for Opinion

FILE # MC39311-96
I.D. # 39311

Dear General Morales:

I am making this request on behalf of the members of the Travis County Delegation at the request of the General Services Commission and Aircraft Pooling Board as a result of questions arising out of considerations involving Robert Mueller Municipal Airport. These questions are designed to help us understand how the state might acquire and operate that facility, and, if it does, how the state might be legally bound to prohibit the use of that airport by commercial passenger and freight airlines.

Is there any constitutional or statutory authority that allows or prohibits state ownership and operation of an airport?

Is specific statutory authority necessary for either the General Services Commission or the Aircraft Pooling Board to own and operate an airport? Does such authority currently exist?

Does either the Aircraft Pooling Board or the General Services Commission have the authority to initiate condemnation proceedings on its own authority?

Under Section 2204.001 of the Government Code, the Governor is authorized to purchase, acquire the use, or initiate condemnation for public use "any land that is required by this state for any type of public use." What is the legal standard that must be met to determine that a given piece of land "is required by this state..." for a specific public purpose? Is Legislative authorization required prior to action by the Governor? Does inverse condemnation case law indicate alternative sites for the proposed public purpose need to be evaluated?

Is an appropriation to the Aircraft Pooling Board or the General Services Commission by the Legislature sufficient authority for either agency to own and operate an airport or for the



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Governor to initiate condemnation proceedings under Sec. 2204.001, Government Code?

Can an appropriation, through rider language, legally authorize the owner of land proposed for state acquisition to place a restrictive covenant or condition on the use of the property that contains a reversionary clause to the owner, even if the property acquisition is contested by the owner through the courts?

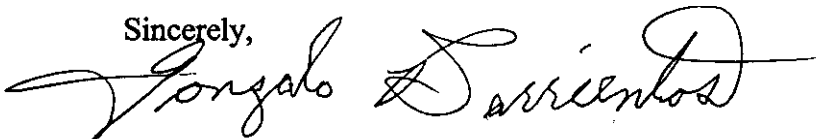
Can the Legislature, by statute, authorize the owner of land proposed for state acquisition to place a restrictive covenant or condition on the use of the property that contains a reversionary clause to the owner, even if the property acquisition is contested by the owner through the courts?

Does current law allow the state to be held liable for damages that result to private property owners as a result of operations at a state owned facility?

Current law exempts property at municipal airports from taxation, particularly leased facilities. Current law allows property taxation of facilities owned privately but which, through lease, operate on state property. Would private facilities built on a state airport be exempt from local property taxes?

I appreciate the volume of research that will be required to answer these questions, but considering the short time frame required for the appropriate actions to be taken during the upcoming session of the Legislature, I hope you will give a response to this Opinion Request a high priority. Please feel free to contact me or my staff if you have any questions?

Sincerely,

A handwritten signature in cursive script, reading "Gonzalo Barrientos". The signature is written in dark ink and is positioned below the word "Sincerely,".

Gonzalo Barrientos
Chairman

cc: The Honorable George Bush
The Honorable Bob Bullock
The Honorable Pete Laney
Bill Clayton
Tom Treadway
Members of the Travis County Delegation